

**Remarks/Arguments:**

With the present response, claims 55, 56, 61, 62, 65,77, and 81-89 are pending. Claims 82-84 and 89 are withdrawn from consideration.

**Claim rejections**

Claims 55, 56, 61, 62, 65-77, 81, and 85-88 stand rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,480,423 to Ravenscroft et al. ("Ravenscroft").

Ravenscroft discloses a prosthesis delivery device that includes a catheter body 4, a prosthesis 6 carried by the catheter body 4, and a sheath 8 disposed over the prosthesis 6. The catheter body 4 includes three radiopaque markers 9, 11, 13 disposed along the length of the stent 6. Col. 4, lines 62-66. The stent 6 is constructed from an elastic material (Col. 5, lines 2-3) and engages the inner wall of the sheath 8, owing to the elastic nature of the stent 6, which causes the stent 6 to push radially outward. Col. 5, lines 25-28. The friction between the inner wall of the sheath 8 and the stent 6 places the stent under tension during retraction of the sheath 8. Stent 6 does not engage radiopaque markers 9, 11, 13, as illustrated in FIGS. 2a-2e 2d.

Ravenscroft also discloses that, after the retraction of the sheath 8 from the remainder of the device, the sheath cannot be extended distally without catching on the expanded portions of the stent and possibly pushing the stent distally off the catheter. Col. 7, lines 17-20.

**Independent claims 55, 65, and 72**

Each of claims 55 and 65 recites, *inter alia*, a stabilizer having one or more members for *engaging the stent inner periphery along the length of a stent-underlying portion*. Claim 72 recites, *inter alia*, a stabilizer having one or more radial protuberances, wherein the one or more radial protuberances comprise at least one or more rings about an inner core *for engaging the stent inner periphery*. The Office Action alleges that radiopaque markers 9, 11, 13 are for engaging the stent inner periphery. Office Action, page 2, lines 20-21. Ravenscroft, however, discloses that the stent engages the inner wall of the sheath. Further, FIGS. 2a-2e of Ravenscroft illustrate stent 6 spaced away from radiopaque markers 9, 11, 13, such that radiopaque markers 9, 11, 13 *cannot* engage the stent inner periphery along the length of a stent-underlying portion, as is recited in claim 55.

While the recited language from claims 55 and 65 of "one or more members for engaging the stent inner periphery along the length of the stent-underlying portion" and the language from claim 72 of "at least one or more rings about the

inner core *for engaging the stent inner periphery*" (emphasis added) are functional limitations, it is well settled that this language must be evaluated and considered.

A functional limitation *must be evaluated and considered*, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. A functional limitation is often used in association with an element, ingredient, or step of a process to define a particular capability or purpose that is served by the recited element, ingredient, or step. . . . limitations such as "members *adapted to be positioned*" . . . serve to precisely define present structural attributes of interrelated component parts of the claimed assembly. *In re Venezia*, 530 F.2d 956, 189 USPQ 149 (CCPA 1976)

MPEP § 2173.05(g) (emphasis added). In the present case, as in *In re Venezia*, the subject limitations define structural attributes of interrelated components, namely the attribute that the members and rings, respectively, are positioned to engage the stent inner periphery.

With regard to claims 55, 65, and 72, the elements 9, 11, 13 of Ravenscroft, which the Office Action alleges are for engaging the stent inner periphery, are in fact only radiopaque markers for indicating the location of the stent as it is being delivered to its intended location. There is no disclosure in Ravenscroft that markers 9, 11, 13 are for engaging, or do in fact engage, the stent inner periphery. To the contrary, Ravenscroft discloses that the stent engages the wall of the sheath, which causes the stent to push radially outward.

Because Ravenscroft fails to disclose or suggest all of the limitations of claims 55, 65, and 72, Applicants respectfully submit that the rejections of claims 55, 65, and 72 are improper. Applicants respectfully request reconsideration and allowance of claims 55, 65, and 72. Claims 56, 61, and 62 depend from claim 55; claims 66-71 ultimately depend from claim 65; and claims 73-77 ultimately depend from claim 72. Applicants respectfully submit that claims 56, 61, 62, 66-71, and 73-77 are all allowable over Ravenscroft for at least the reasons set forth above with respect to claims 55 and 65. Applicants respectfully request reconsideration and allowance of claims 56, 61, 62, and 66-71.

### **Independent claim 81**

Independent claim 81 recites, *inter alia*, a stabilizer comprising a non-inflatable inner core and one or more members for engaging a stent inner periphery along the length of the stent, wherein the one or more members for engaging the stent inner periphery comprises *parts of an outer surface of the stabilizer adapted to frictionally engage the stent inner periphery along the length of the stent-underlying portion from the proximal end to the distal end of the*

stent-underlying portion, *without protruding through interstitial openings in the stent inner periphery.*

The radiopaque markers 9, 11, 13 of Ravenscroft that do not engage the inner periphery of stent 6 are addressed above with respect to claims 55, 65, and 72. Further, the flexible elongate members 16 extend through interstitial openings in the stent member periphery, as shown in Ravenscroft FIGS. 1a and 2a-2e. Ravenscroft therefore fails to disclose or suggest all of the limitations of claim 81, namely, parts of an outer surface of the stabilizer *adapted to frictionally engage the stent inner periphery along the length of the stent-underlying portion from the proximal end to the distal end of the stent-underlying portion, without protruding through interstitial openings in the stent inner periphery.*

Because Ravenscroft fails to disclose or suggest all of the limitations of claim 81, Applicants respectfully submit that the rejections of claim 81 is improper. Applicants respectfully request reconsideration and allowance of claim 81.

#### **Independent claims 85 and 87**

Each of amended independent claims 85 and 87 recites, *inter alia*, a stabilizer having an outer surface adapted to frictionally engage the stent inner periphery *without protruding through interstitial openings in the stent inner periphery.* As discussed above, the stent of Ravenscroft is biased radially outward against the sheath such that the underlying catheter does not frictionally engage the stent along the length of the stent. Additionally, as discussed above with respect to claim 81, Ravenscroft's fingers 16 extend through the interstitial openings at the distal end of stent 6. See Ravenscroft, FIGs. 1a, 2a-2e.

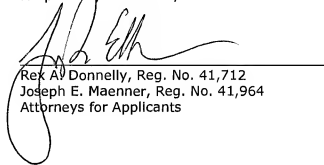
Ravenscroft fails to disclose or suggest the limitation of *an outer surface of the stabilizer adapted to frictionally engage the stent inner periphery without protruding through interstitial openings in the stent inner periphery* as is recited in each of amended claims 85 and 87. Because Ravenscroft fails to disclose or suggest all of the limitations of claims 85 and 87, Applicants respectfully submit that the rejection of claims 85 and 87 is improper. Applicants respectfully request reconsideration and allowance of claims 85 and 87.

Claim 86 depends from claim 85. Applicants respectfully submit that claim 86 is allowable over Ravenscroft for at least the same reasons set forth above with respect to claim 85. Applicants respectfully request reconsideration and allowance of claim 86.

**Conclusion**

In light of the above amendments and remarks, Applicants respectfully submit that the present application is in condition for allowance. Applicants respectfully request reconsideration and allowance of the claims.

Respectfully submitted,



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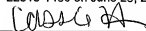
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